(i) Pre-Ordering Functions

The Public Staff states that BellSouth currently offers CLPs three categories of electronic interfaces: TAG, RoboTAG™, and LENS. The Public Staff notes that TAG meets industry standards and is a machine-to-machine interface; RoboTAG™ has the same functionality of TAG; and LENS is a human-to-machine interface available for CLPs that have not integrated their OSS with BellSouth's OSS. The Public Staff explains that BellSouth's pre-ordering interfaces allow CLPs to validate a customer's address, obtain information on the availability of switched-based features and services, determine a due date for installation of service, and obtain CSRs. The Public Staff recognizes that BellSouth contends that it provides the same CSR data to CLPs that it provides to its retail operations.

During pre-ordering, the Public Staff states that BellSouth must provide CLPs with nondiscriminatory access to the same detailed loop makeup information that is available to its retail units either electronically or manually. The Public Staff explains that BellSouth provides this information electronically through the industry-standard, machine-to-machine TAG interface and the human-to-machine LENS interface. Through TAG or LENS, the Public Staff understands that CLPs can request loop makeup information on existing facilities that are owned by them or BellSouth, and on new or spare facilities owned by BellSouth. According to the Public Staff, BellSouth also offers its LQS to network service providers so that they may determine if lines will carry BellSouth's wholesale ADSL. The Public Staff notes that CLPs have electronic access to LQS.

The Public Staff believes that BellSouth provides nondiscriminatory access to pre-ordering functions: (1) CLPs are able to use application-to-application interfaces to perform pre-ordering functions; (2) CLPs are able to integrate BellSouth's pre-ordering and ordering interfaces; (3) BellSouth's pre-ordering systems provide reasonably prompt response times; (4) BellSouth's pre-ordering systems are consistently available in a manner that affords CLPs an opportunity to compete; and (5) BellSouth provides CLPs with nondiscriminatory access to pre-ordering functions to determine whether a loop is xDSL-capable. The Public Staff does not find the CLPs' arguments that BellSouth fails to provide accurate due-date calculations persuasive. Although the FCC found in the *Second Louisiana Order* that BellSouth's interface did not have an automatic due-date calculation, the Public Staff asserts that BellSouth has made significant changes to its pre-ordering interfaces and has implemented an electronic due-date calculator in LENS that allows CLPs to view an installation calendar to obtain an automatically-calculated estimated due date.

(ii) Ordering Functions

The Attorney General notes that after the FCC issues its decision on the BellSouth Georgia/Louisiana application, the Commission will be in a better position to weigh the respective merits of the Georgia and Florida tests conducted by KPMG.

The Attorney General also notes that KPMG gave BellSouth a "not satisfied" rating on three ordering and provisioning items: (1) timeliness of responses to fully mechanized orders, (2) timeliness and accuracy of clarifications to partially mechanized orders, and (3) accuracy of translation from external to internal service orders resulting in switch translation and directory listing errors. The Attorney General mentions that KPMG witness Weeks noted that in many cases where testing in other states resulted in items receiving a "not satisfied" rating, regulators have obtained some sort of action plan from the carrier to remedy the situation. Therefore, the Attorney General states that if the Commission chooses to rely solely on the Georgia test, the Commission may want to consider obtaining such a plan from BellSouth to remedy the issues KPMG found "not satisfied" in the Georgia test.

The Public Staff states that ordering is the exchange of information between BellSouth and a CLP about customer products and services or UNEs. As stated earlier, the Public Staff remarks that BellSouth states that it provides three nondiscriminatory electronic ordering interfaces: EDI, an industry-standard electronic ordering interface, as well as TAG (including RoboTAG™), and LENS. The Public Staff comments that BellSouth notes that it has given CLPs the ability to process orders for partial migrations in such a way as to provide an efficient competitor a meaningful opportunity to compete.

The Public Staff believes that BellSouth generally provides nondiscriminatory access to OSS during ordering functions. In particular, the Public Staff asserts that BellSouth has demonstrated that: (1) it returns timely FOC and reject notices; (2) BellSouth's systems flow-through a high percentage of orders without manual handling; (3) the mechanized orders that do not flow-through BellSouth's systems are handled in a reasonably prompt and accurate manner; (4) the mechanized and manual components of BellSouth's ordering systems are scalable to accommodate increasing demand; (5) BellSouth provides jeopardy notices in a nondiscriminatory manner; and (6) BellSouth provides timely completion notices.

(iii) Provisioning Functions

The Public Staff explains that provisioning involves the exchange of information between telecommunications carriers where one executes a request for a set of products and services, UNEs, or a combination thereof, from the other with acknowledgments and status reports. The Public Staff states that BellSouth provides electronic notifications from both customer and company-caused jeopardies through the EDI, TAG, and LENS interfaces.

The Public Staff believes that BellSouth is providing nondiscriminatory access to provisioning functions. The Public Staff asserts that the record establishes that BellSouth provisions CLP orders in substantially the same time and manner as retail orders.

(iv) Maintenance and Repair Functions

The Public Staff states that BellSouth asserts that it offers CLPs electronic interfaces for trouble reporting, which provide them with access to the maintenance and repair functions in substantially the same time and manner as BellSouth offers its retail customers. The Public Staff believes that BellSouth provides nondiscriminatory access to maintenance and repair interfaces as evidenced by the availability and timeliness of the interfaces, the timeliness of repair work, and the quality of repair work.

(v) Billing Functions

The Public Staff contends that the evidence in the record indicates that BellSouth is providing nondiscriminatory access to billing functions. The Public Staff believes that BellSouth has demonstrated that it provides complete and accurate reports on the service usage of CLP customers in substantially the same time and manner that BellSouth provides itself.

(b) Third-Party Test

The Attorney General notes that after the FCC issues its decision on the BellSouth Georgia/Louisiana application, the Commission will be in a better position to weigh the respective merits of the Georgia and Florida tests conducted by KPMG.

The Attorney General also notes that KPMG gave BellSouth a "not satisfied" rating on three ordering and provisioning items. The Attorney General mentions that KPMG witness Weeks noted that in many cases where testing in other states resulted in items receiving a "not satisfied" rating, regulators have obtained some sort of action plan from the carrier to remedy the situation. The Attorney General states that, therefore, if the Commission chooses to rely solely on the Georgia test, the Commission may want to consider obtaining such a plan from BellSouth to remedy the issues KPMG found "not satisfied" in the Georgia test.

The Public Staff notes that on March 20, 1999, the GPSC established an independent third-party test of BellSouth's OSS to test areas where either BellSouth had not experienced significant commercial usage or where CLPs had expressed concern about operational readiness. The Public Staff comments that the GPSC established a testing plan that identified the areas, OSS functions, and interfaces that the test would examine. The Public Staff states that on March 20, 2001, the Final Report and Opinion Letter analyzing every evaluation criterion from the MTP, STP, and Flow-Through Plan and categorizing it as being satisfied, not satisfied, no result determination made or complete was filed. The Public Staff highlighted that KPMG has conducted several third-party tests, including New York and Massachusetts tests, which the FCC found to be persuasive. The Public Staff notes that the CLPs, specifically AT&T, have raised concerns about KPMG's ability to act independently of BellSouth. However, the Public Staff opines that there is no evidence to indicate that KPMG exhibited any bias in favor of BellSouth.

The Public Staff states that the CLPs contended that they were denied the opportunity to provide input or participate in the Georgia third-party test. However, the Public Staff opines that there was no evidence to support this claim. The Public Staff notes that while the CLPs may have had a greater role in the third-party test conducted in Florida, they certainly had a central role in the Georgia testing.

The Public Staff notes that the GPSC did not require the testing of LENS due to significant commercial usage of the interface. According to the Public Staff, however, this does not indicate the quality of the access to this interface. The Public Staff comments that electronic ordering of xDSL was not tested in Georgia because the functionality was not operational at the time of the development of the third-party test. The Public Staff notes that another area that was not sufficiently covered by the third-party test in Georgia is the volume and stress testing. The Public Staff notes that no stress tests were run in the Georgia test.

The Public Staff believes that the Commission should be able to build on the work of the GPSC by accepting the results of the third-party testing conducted in Georgia to determine whether BellSouth is complying with the 14-point checklist and especially Checklist Item 2. The Public Staff acknowledges unsatisfied criteria and items for which the evaluation is not yet complete. However, the Public Staff believes that the performance measures proposed by the Public Staff should enable the Commission to monitor these areas and assess penalties as necessary. Further, the Public Staff comments that BellSouth should have a sufficient opportunity to demonstrate to the FCC that it provides nondiscriminatory access to the LENS interface and the various electronic xDSL functionalities and that its systems have the capacity to handle a large commercial volume of orders.

(c) Regionality of OSS

The Attorney General states that without taking a position as to whether BellSouth's OSS are in fact the same throughout its region or not, the Attorney General's office finds AT&T's arguments on the issue of regionality to be somewhat contradictory. The Attorney General states that on one hand, AT&T argues that BellSouth's OSS are not regional and on the other hand, AT&T argues that the Commission should examine and make use of KPMG's testing on BellSouth's OSS in Florida. The Attorney General maintains that if it is in fact true, as AT&T claims, that BellSouth's OSS are not regional, then it is not clear how examination of third-party testing on BellSouth's OSS in Florida would be of value to the Commission and the FCC.

According to the Public Staff, the FCC has held that state commissions may build on the work of other states in their regions when conducting their Section 271 reviews. The Public Staff notes that BellSouth engaged PwC to complete a regional attestation so that the Commission may rely upon the North Carolina commercial usage data supplemented by the Georgia third-party test. The Public Staff states that the PwC attestation verifies that the OSS systems, processes, and procedures for pre-ordering and ordering are the same and that DOE and SONGS are comparable. The Public Staff opines that the evidence in the record indicates that BellSouth's OSS are the same throughout the BellSouth region, and BellSouth may supplement its North Carolina data with information about the third-party test in Georgia to demonstrate compliance with Checklist Item 2.

(d) Change Management Process

The Public Staff notes that the Commission has considered the operation of the *Change Control forum in several arbitrations.* Further, the Public Staff comments that the Commission has ruled that the CCP is the proper venue to address CLP requests regarding electronic submission and/or flow-through of specific types of service requests. The Public Staff believes that the evidence in the record indicates that BellSouth generally adheres to the CCP, that the CCP is an adequate system change management process, and that BellSouth does not exert undue control over the CCP by vetoing change requests supported by a majority of the forum. The Public Staff points out that in Georgia's third-party test, KPMG determined that BellSouth's CCP satisfied all testing criteria. Further, the Public Staff asserts that by the time that BellSouth's 271 application for North Carolina is reviewed by the FCC, BellSouth should be able to show that it has an adequate testing environment and that it gives CLPs adequate notice and an opportunity to offer input on all changes which affect CLPs.

(e) <u>Performance Measures and Data Integrity</u>

The Attorney General believes that due to the importance of performance data, the Commission should assure itself that it can be confident of the reliability of BellSouth's performance data and should examine the issues raised by the United States DOJ regarding BellSouth's data when making a decision on BellSouth's application.

The Public Staff states that the Commission conducted a lengthy hearing and received volumes of testimony in Docket No. P-100, Sub 133k, to establish a set of performance measurements and a penalty plan for BellSouth. The Public Staff comments that until a decision has been rendered, BellSouth has requested the Commission to adopt on an interim basis a set of performance measures and standards that have already been established by the GPSC, and if or when the FCC grants Section 271 authority in North Carolina, to adopt the SEEM it proposed in Docket No. P-100, Sub 133k.

While the Public Staff agrees with BellSouth that the set of performance measures established by the GPSC, with the most recent alterations, are sufficient at this time, the Public Staff is concerned about several changes to BellSouth's flow-through reports. The Public Staff comments that since BellSouth asserts that its flow-through reports are now correct, BellSouth should promptly inform the Commission if this data does change again and provide the Commission with a full explanation. In addition, the Public Staff believes that the Commission will have an opportunity to observe BellSouth's performance reporting in the time between the Commission's order in this proceeding and the final order in Docket No. P-100, Sub 133k. The Public Staff opines that if the problems pointed out by the CLPs persist, the Commission will be able to address them in that proceeding. The Public Staff recommends that the Commission adopt the SQM and penalty plans currently in effect in Georgia with revisions as proposed by the Public Staff effective 30 days from the Commission's order until an order is issued in Docket No. P-100, Sub 133k. The Public Staff suggests that any penalty payments be subject to true-up upon issuance of an order in Docket No. P-100, Sub 133k.

(f) UNE Combinations

The Public Staff notes that in the first Section 271 proceeding, the Commission determined that BellSouth was not required to recombine elements that it provided on an unbundled basis. The Commission, however, did find it appropriate for BellSouth to include in its SGAT a clause stating that it would provide services to assist with combining or operating UNEs at prices negotiated by the parties. The Public Staff argues that it is apparent that BellSouth's refusal to provide new combinations at TELRIC prices materially hinders competition. The Public Staff states that it is disappointing that BellSouth has not shown any initiative to voluntarily provide new combinations at TELRIC rates, though this policy does not comply with the bare requirements of the law. BellSouth should provide at cost-based rates combinations of elements to CLPs that are ordinarily combined in its network, regardless of whether the combination is preexisting at a particular location. Although this is not a condition of Section 271 approval, the Public Staff believes that this measure will lead to increased competition and customer choice.

(g) UNE Pricing

The Public Staff states that the rates contained in BellSouth's SGAT are just and reasonable and comply with the FCC's pricing rules. Cost studies submitted on the new UNEs utilize the Commission-approved methodology and contain the modifications and input adjustments previously required. BellSouth has demonstrated that it is, in general, offering or providing nondiscriminatory access to network elements in accordance with the requirements of Sections 251(c)(3) and 252(d)(1).

Discussion

(a) Nondiscriminatory Access to OSS

Nondiscriminatory access to OSS is one of the most critical prerequisites to competition in the local exchange market, and this checklist item is by far the most contested issue in this docket. Based on the evidence in the record as well as the monthly performance data reported by BellSouth through the close of the hearings, which included data through August 2001, the Commission finds that BellSouth is providing nondiscriminatory access to its OSS. BellSouth has shown that its deployed OSS functions are operationally ready, as demonstrated by actual commercial usage, carrier-to-carrier testing, and the independent third-party test conducted by KPMG[87] in Georgia. Furthermore, the Commission notes that the FCC in its *GALA II Order* also found, as stated in ¶101, that "BellSouth provides competitive LECs with nondiscriminatory access to its OSS and thus satisfies the requirements of checklist item 2."

With regard to CLP allegations about the stability of BellSouth's interfaces, BellSouth acknowledges that LENS has experienced system outages. However, the full outages and the degraded or slow service outages of LENS in July 2001 represented less than 2% percent of total LENS availability time. In August 2001, there were no degraded or slow service outages, and the full outages represented less than 1% of total LENS availability time. The FCC has stated that it will look at the totality of the circumstances in judging OSS performance.[88] The Commission does not believe that this level of outages would have caused competitive harm sufficient to warrant a finding of checklist noncompliance. The FCC reached a similar conclusion in ¶118 of its *GALA II Order.* However, when outages occur, the Commission reminds BellSouth that it needs to timely post notice of such outages on its website in order to alert CLPs that a problem has been reported and that it is actively under investigation by BellSouth.

Although AT&T argues that the answer times for CLPs in the LCSC are slower than the answer times for BellSouth's retail customers, BellSouth's performance data show that its answer times in the LCSC have improved and are better than the answer times for BellSouth's retail customers for June through August 2001.

Average Speed Of Answer (F.4.1)

June 2001:	BST 134.12 sec.	6,948,605 calls;	CLPs 65.30 sec.	33,796 calls
July 2001:	BST 199.33 sec.	6,834,494 calls;	CLPs 59.15 sec.	44,292 calls
August 2001:	BST 194.82 sec.	7,246,589 calls;	CLPs 24.50 sec.	28,767 calls

The data show that the average speed of answer time for CLP calls has decreased from 65.30 seconds in June 2001 to 24.50 seconds in August 2001. The answering time experienced by CLPs from June 2001 through August 2001 was significantly better than the answering time for BellSouth's retail customers, i.e., BellSouth met and did better than the retail analogue.

The Commission is not convinced by Covad's claim that BellSouth has failed to provide sufficient information necessary for electronic ordering of xDSL loops through LENS. Such information is contained in numerous documents that BellSouth makes available to CLPs as well as through CLP training courses, both on-line and in-person.

There is evidence in the record that Covad has not availed itself of these training opportunities for some time. Covad argues that since KPMG did not test LENS or the capabilities to order xDSL loops electronically, the evidence does not support the conclusion that BellSouth has met its obligation to provide nondiscriminatory access to OSS. Since these functionalities were not tested, this Commission must rely on commercial usage and carrier-to-carrier testing to establish that OSS functions are operationally ready.[89] As of February 2001, 287 CLPs were using LENS, thereby demonstrating significant commercial usage. Further, based on our record of evidence, BellSouth conducted beta testing of its electronic xDSL ordering functionality with several CLPs, including Covad. Additionally, the Commission notes that in the *GALA II Order* in ¶149, the FCC states that "BellSouth claims that 75 percent of the xDSL-capable loops that were ordered in Georgia could have been ordered electronically, and 83 percent of the xDSL-capable loops could have been ordered electronically region-wide."

(i) <u>Pre-Ordering Functions</u>

The Commission finds that BellSouth provides nondiscriminatory access to pre-ordering functions. In particular, the Commission concludes that: (1) CLPs are able to use application-to-application interfaces to perform pre-ordering functions; (2) CLPs are able to integrate BellSouth's pre-ordering and ordering interfaces; (3) BellSouth's pre-ordering systems provide reasonably prompt response times; (4) BellSouth's pre-ordering systems are consistently available in a manner that affords CLPs an opportunity to compete; and (5) BellSouth provides CLPs with nondiscriminatory access to pre-ordering functions to determine whether a loop is xDSL-capable.[90]

BellSouth must provide CLPs with all the requirements necessary for integrating BellSouth's interfaces.[91] According to the FCC, a BOC has successfully integrated its interfaces if CLPs "may, or have been able to, automatically populate information supplied by the BOC's pre-ordering systems onto an order form (the "local service request" or "LSR") that will not be rejected by the BOC's OSS systems."[92] Although the FCC previously expressed concern about the ability of CLPs to integrate BellSouth's pre-ordering and ordering functions,[93] BellSouth has addressed this concern. In particular, CLPs may integrate pre-ordering and ordering functions by integrating the TAG pre-ordering interface with the EDI ordering interface, or by integrating TAG pre-ordering with TAG ordering. BellSouth estimates that 6 CLPs have successfully integrated the TAG pre-ordering interface with the EDI interface, and 43 CLPs have successfully integrated TAG pre-ordering with TAG ordering. Furthermore, the Commission notes that the FCC in its GALA II Order in ¶121, states that "we conclude that BellSouth's TAG pre-ordering interface can be successfully integrated with BellSouth's EDI ordering or TAG ordering functions in compliance with the standards previously established by the Commission in the SWBT Texas Order and, additionally, now offers a parsed CSR."

With respect to AT&T's arguments concerning the parsing of CSRs, the parsing capability AT&T seeks was to be implemented in January 2002. The Commission considered this issue in the AT&T/BellSouth arbitration in Docket Nos. P-140, Sub 73, and P-646, Sub 7, and referred it to the CCP for consideration by the entire forum. Since that time, the GPSC has ordered BellSouth to provide this functionality. The Commission notes that the FCC in its *GALA II Order* in ¶126, states that "[o]n January 5, 2002, BellSouth began making available a parsed CSR to competing carriers." In said Paragraph, the FCC states that two software vendors, Telcordia and Exceleron, have tested the parsed CSR functionality and reported that it works as designed. The FCC also pointed out that to the extent carriers desire to test the parsed CSR functionality, BellSouth has made its CAVE testing environment available for this purpose. Additionally, in the *GALA II Order* the FCC in ¶129, comments that "BellSouth already has corrected all of the defects associated with the parsed CSR functionality." Accordingly, the Commission considers AT&T's arguments concerning the parsing of CSRs to be moot since BellSouth is now successfully offering the parsed CSR functionality to competing carriers.

The Commission is not persuaded by the CLPs' arguments that BellSouth fails to provide accurate due-date calculations. Although the FCC found in the *Second Louisiana Order*, ¶106, that BellSouth's LENS interface did not have an automatic due-date calculation, BellSouth has subsequently made significant changes to its pre-ordering interfaces and has implemented an electronic due-date calculator in LENS that allows CLPs to view an installation calendar and obtain an automatically-calculated estimated due date. Furthermore, while an estimated due-date calculation would not be provided in the pre-ordering mode in certain situations when an LSR falls out for manual handling, service requests that require manual handling are treated the same with respect to due dates whether they originate from a BellSouth retail customer or a CLP. The Commission does not find this result discriminatory. Furthermore, the Commission notes that the FCC *GALA II Order* in ¶132, states that "we find that BellSouth provides reliable due dates to competitors, and in a manner equivalent to what BellSouth provides its retail services."

Interface Response Times and Availability

The Commission finds that BellSouth has demonstrated that it provides requesting carriers access to its pre-ordering functionality in a manner that allows an efficient competitor a meaningful opportunity to compete. Performance data from June 2001 through August 2001 reflects that BellSouth's systems consistently met the established benchmark for the interface availability submetrics (D.1.1.1-D.1.2.11) for all pre-ordering interfaces.

Additionally, BellSouth has consistently met the retail analogue for OSS Pre-ordering Average Response Interval for LENS except for D.1.3.5.1 and D.1.3.5.2, Average Response Interval CLP (LENS)/Hands-Off Assignment Logic/Customer Record Information System (HAL/CRIS)/Region/RNS and ROS. However, BellSouth conducted a detailed analysis and identified a problem in the LENS software involving response times from HAL/CRIS. BellSouth corrected this problem in its July 28, 2001 update and met the retail analogue comparison for these submetrics in August 2001. The Commission notes that in August 2001, the pre-ordering response time for access to CSRs via LENS was 1.41 seconds, compared to more than 3 seconds for BellSouth retail.

For the OSS Pre-ordering Average Response Interval for TAG, BellSouth had not moved the time stamp for TAG outside the firewall prior to the July 2001 Monthly State Summary (MSS). Therefore, the service quality measurement standard, which is retail + two seconds, is working to BellSouth's benefit. The Commission concludes that it is still acceptable to rely on the pre-ordering response data provided in this metric but two seconds must be backed out of the results for months prior to July 2001. The results for Average Response Interval-CLP (TAG) reveal that by subtracting two seconds from BellSouth's retail performance for months prior to July results in at most a two second difference in pre-ordering response times for CLPs. This difference did not prevent a CLP from obtaining pre-ordering information through the TAG interface in a reasonable period. In July 2001, there was only one-tenth of a second difference between the CLP and retail results for RNS and four-tenths of a second difference for ROS. BellSouth met the retail analog comparison in August 2001.

<u>Access to Loop Qualification Information</u>

The Commission also finds that BellSouth provides pre-ordering loop makeup information electronically through TAG and LENS, so that CLPs can access the information contained in the LFACS.

Further, the Commission notes that the FCC found in its *GALA II Order*

> Based on the evidence in the record, we find, as did the Georgia and Louisiana Commissions, that BellSouth provides competitive LECs with

access to loop qualification information in a manner consistent with the requirements of the *UNE Remand Order*. [¶112 with footnotes omitted]

Electronic Loop Makeup Inquiry (F.2.2 and F.2.2.1)

Benchmark >= 95% within 5 minutes (1 minute for August)

June 2001:	100% of 399
July 2001:	100% of 736
August 2001:	100% of 551

As the data show, from June 2001 through August 2001, BellSouth completed 100% of the electronic inquiries by CLPs for loop makeup information within the benchmark interval, which was five minutes in June and July and it was lowered to one minute in August.

Manual Loop Makeup Inquiry (F.2.1 and F.2.1.1)

BellSouth's performance in providing loop makeup information manually also has satisfied the service quality measurement. In June 2001 and August 2001, BellSouth's Loop Makeup Inquiry Manual submetrics results show that BellSouth returned 100% of manual requests for loop makeup information within three business days, which obviously exceeds or is better than the benchmark of 95% returned within three business days. During July 2001, BellSouth returned 86% of the manual requests for loop makeup information within three business days.

(ii) Ordering Functions

The Commission has taken notice of all filings in the Georgia/Louisiana applications for Section 271 authority filed with the FCC on October 2, 2001 and **February 14, 2002**. The Commission notes that on November 21, 2001, BellSouth filed a letter with the FCC indicating that CLPs no longer needed to include an end-user's service address on a LSR for the customer to be served by UNE-P. While the GPSC ordered BellSouth to make this change by November 3, 2001, the new process caused approximately 30% of orders to be rejected. BellSouth's letter indicates that it has largely resolved this problem with order rejection as of the weekend prior to November 21, 2001, and has fully implemented this change. The Commission notes that in the *GALA II Order* in ¶122, the FCC states "BellSouth now provides telephone number (TN) migration to enable competing carriers to order migrations to UNE-P using only the telephone number (and house number for verification) in order to substantially reduce rejected orders." Further, in the *GALA II Order* in ¶125, the FCC states:

> This has reduced the percentage of rejected orders, especially address related errors. We also note that BellSouth has eliminated a mismatch problem that was causing a small number of rejects for TN migration orders when the address on the CSR did not match the Regional Street Address Guide (RSAG) database.

The Commission finds that BellSouth provides nondiscriminatory access to OSS ordering functions. In particular, the Commission concludes that BellSouth has demonstrated that: (1) it returns timely FOC and rejection notices; (2) BellSouth's systems flow-through a reasonable percentage of orders without manual handling; (3) the mechanized orders that do not flow-through BellSouth's systems are handled in a reasonably prompt and accurate manner; (4) the mechanized and manual components of BellSouth's ordering systems are scalable to accommodate increasing demand; (5) BellSouth provides jeopardy notices in a nondiscriminatory manner; and (6) BellSouth provides timely completion notices.[94] Furthermore, the Commission notes that the FCC in its *GALA II Order* in ¶135 found that "BellSouth demonstrates, based on the evidence in the record, that it provides nondiscriminatory access to its ordering systems."

<u>Functional Acknowledgments (F.12.1.1-F.12.2.2)</u>

BellSouth provided Functional Acknowledgments for CLP orders from June 2001 through August 2001 as shown below:

O-1 Acknowledgment Message Timeliness - EDI >= 90% within 30 minutes for June and July and 95% within 30 minutes in August; and TAG >= 95% within 30 minutes.

O-2 Acknowledgment Message Completeness - EDI and TAG 100%.

June 2001:	O-1: EDI 96.90% of 58,137 orders	TAG 99.96% of 127,390 orders
	O-2: EDI 97.14% of 58,137 orders	TAG 99.96% of 127,390 orders
July 2001:	O-1: EDI 96.50% of 78,663 orders	TAG 99.75% of 194,073 orders
	O-2: EDI 99.95% of 78,663 orders	TAG 99.75% of 194,073 orders
August 2001:	O-1: EDI 93.66% of 86,217 orders	TAG 99.99% of 199,829 orders
	O-2: EDI 99.65% of 86,217 orders	TAG 99.99% of 199,829 orders

For submetric F.12.2.1 (% Acknowledgment Message Completeness/EDI), problems occurred on only 39 (0.05%) of the total 78,663 messages returned in July and 302 (0.35%) of 86,217 messages returned in August.

For submetric F.12.2.2 (% Acknowledgment Message Completeness/TAG), BellSouth failed to deliver just 51 (.04%) of the 127,390 messages in June, 485 (.25%) of the 194,073 messages in July, and 20 (.01%) of the 199,829 messages in August.

For EDI and TAG interfaces, BellSouth met the service quality measurement for functional acknowledgment timeliness in June and July but missed it for EDI in August by 1.34%. BellSouth did not meet the benchmark of 100% functional acknowledgment completeness in any of the three months, but it only missed by 0.35% for EDI and 0.01% for TAG in August.

FOC Timeliness (B.1.9.1-B.1.13.17)

The CLPs' criticisms of BellSouth's FOC and reject timeliness performance are not supported by BellSouth's performance data. For LSRs submitted electronically, the benchmark is 95% for the FOCs returned within 3 hours. The benchmark for partially mechanized is 85% of orders returned within 18 hours in June 2001 and July 2001 and 85% of orders returned within 10 hours in August 2001; and for nonmechanized, 85% within 36 hours.

In June, 99% of mechanized orders were returned in 3 hours; 96% of partially mechanized orders were returned in 18 hours; and 96% of nonmechanized orders were returned within 36 hours. In June, BellSouth missed submetrics B.1.9.5 (xDSL) by returning 85.05% of 107 mechanized orders in 3 hours; B.1.9.8 (2W Analog Loop Design) by returning 84.62% of 26 mechanized orders in 3 hours; B.1.9.12 (2W Analog Loop w/LNP Design) by returning 84.62% of 26 mechanized orders in 3 hours; B.1.9.17 (LNP Standalone) by returning 85.37% of 82 mechanized orders in 3 hours; B.1.11.5 (xDSL) by returning 66.67% of 6 partially mechanized orders in 18 hours; and, B.1.11.17 (LNP Standalone) by returning 79.14% of 187 partially mechanized orders in 18 hours.

In July, 96% of mechanized orders were returned within 3 hours, 97% of partially mechanized orders were returned within 18 hours; and 98% of nonmechanized orders were returned within 36 hours. In July, BellSouth missed submetric B.1.9.5 (xDSL) by returning 72.35% of 293 mechanized orders within 3 hours and submetric B.1.9.12 (2W Analog Loop w/LNP Design) by returning 92.86% of 14 mechanized orders within 3 hours.

In August, 96% of mechanized orders were returned within 3 hours; 95% of partially mechanized were returned within 10 hours; and 99% of nonmechanized were returned within 36 hours. In August, BellSouth missed submetric B.1.9.5 (xDSL) by returning 72.42% of 388 mechanized orders in 3 hours; and submetric B.1.12.5 (xDSL) by returning 80.39% of 51 partially mechanized orders within 10 hours.

For the mechanized FOCs, BellSouth determined that many of the LSRs that did not meet the benchmark were submitted between 11:00 p.m. and 4:30 a.m., when the downstream systems were unavailable for processing and a FOC could not be returned.

The Commission notes that BellSouth, on average, met or exceeded the measure for each type of FOC - mechanized, partially mechanized, and nonmechanized - in each of the three months studied. Furthermore, the number of submetrics in which BellSouth is missing the standard for FOC timeliness appears to be declining.

Finally, the Commission notes that the FCC found in its *GALA II Order* that

> Based on the evidence in the record, we find, as did the Georgia and Louisiana Commissions, that BellSouth is providing timely order confirmation notices to competitive LECs in Georgia and Louisiana. . . [¶136 with footnotes omitted]

Reject Timeliness (B.1.4.1-B.1.8.17)

Performance submetrics B.1.4.1-B.1.8.17 examine the reject intervals for the months of June 2001 through August 2001. For LSRs submitted electronically, the benchmark is 97% within one hour. The benchmark for partially mechanized orders requires that 85% of reject notices be returned within 18 hours in June and July and within 10 hours in August; for nonmechanized orders, the benchmark is 85% of reject notices returned within 24 hours.

In June, 96% of mechanized orders were returned in the applicable interval; 93% of partially mechanized orders were returned in the applicable interval; and 97% of nonmechanized orders were returned in the applicable interval. In June, BellSouth missed the intervals for the following submetrics: B.1.4.3 (Loop + Port Combinations), where 95.98% of 647 mechanized orders were returned in the applicable interval; B.1.4.8 (2W Analog Loop Design), where 95.52% of 67 mechanized orders were returned in the applicable interval; B.1.4.15 (Other Non-Design), where 95.98% of 647 mechanized orders were returned in the applicable interval; and B.1.4.17 (LNP Standalone), where 84.21% of 19 mechanized orders were returned in the applicable interval.

In July, 95% of mechanized orders were returned in the applicable interval; 98% of partially mechanized orders were returned in the applicable interval; and 95% of nonmechanized orders were returned in the applicable interval. In July, BellSouth missed the intervals for the following submetrics: B.1.4.3 (Loop + Port Combinations), where 94.37% of 515 mechanized orders were returned in the applicable interval; B.1.4.14 (Other Design), where 76.47% of 17 mechanized orders were returned in the applicable interval; and B.1.8.13 (2W Analog Loop w/LNP Non-Design), where 69.23% of 13 nonmechanized orders were returned in the applicable interval.

In August, 96% of mechanized orders were returned in the applicable interval; 95% of partially mechanized orders were returned in the applicable interval; and 95% of nonmechanized orders were returned in the applicable interval. In August, BellSouth missed the intervals for the following submetrics: B.1.4.3 (Loop + Port Combinations), where 96.63% of 652 mechanized orders were returned in the applicable interval; B.1.4.8 (2W Analog Loop Design), where 93.80% of 129 mechanized orders were returned in the applicable interval; B.1.4.14 (Other Design), where 75.61% of 41 mechanized orders were returned in the applicable interval; B.1.4.17 (LNP Standalone), where 90.00% of 10 mechanized orders were returned in the applicable interval; and B.1.8.10 (2W Analog Loop w/INP Design), where 75% of 8 nonmechanized orders were returned in the applicable interval.

For the mechanized reject intervals that it missed, BellSouth determined that it did not meet many of the one-hour benchmarks due to LSRs that were submitted between 11:00 p.m. and 4:30 a.m. when the downstream systems were unavailable for processing.

BellSouth's failure to return some FOCs or reject notices in a timely manner does not appear to have much competitive impact.[95] Furthermore, in some instances, BellSouth barely missed the benchmark. The FCC has stated that when a BOC misses benchmarks by small margins, the performance disparities can have a negligible competitive impact. Additionally, one of KPMG's criteria was to test whether the TAG interface provided timely fully mechanized rejects and KPMG found that BellSouth satisfied that criterion. Under the circumstances, the Commission finds that BellSouth provides competing carriers with timely order rejection notices in a manner that allows CLPs a reasonable opportunity to compete. Furthermore, the Commission notes that the FCC, in its *GALA II Order* in ¶140, found that "BellSouth provides competing carriers with order reject notices in a timely and nondiscriminatory manner."

Flow-Through

BellSouth has attempted to address the FCC's concerns in the *Second Louisiana Order* regarding flow-through. The record shows that BellSouth has made considerable strides in increasing the level of order flow-through. KPMG evaluated BellSouth's flow-through and the overall functionality and scalability of BellSouth's ordering interfaces and determined that BellSouth satisfied all of the applicable test criteria.

As the FCC has recognized, a relatively low flow-through rate for certain types of orders is not, in and of itself, an indication that CLPs are being denied access to BellSouth's ordering systems.[96] While not perfect, BellSouth's flow-through performance is comparable to the flow-through achieved by other BOCs that have been granted in-region, interLATA authority by the FCC. For example, in Massachusetts, the commercial data from September through December 2000 revealed average total flow-through rates for Verizon, ranging from 46% to 49% of resale orders and 51% to 55% for UNE orders.[97] In the *Pennsylvania Consultative Report* to the FCC, commercial data shows total flow-through rates for resale ranging from 44% to 56% and 54% to 58% for UNE Orders in Pennsylvania. By contrast, between June 2001 and August 2001, BellSouth's achieved average total (regional) flow-through rates for residence range from approximately 75% to 83%, for business from 41% to 53%, and 58% to 69% for UNE orders. For regular flow-through rates, BellSouth metrics show flow-through of 82% to 91% for residence, 57% to 72% for business, and 67% to 81% for UNE orders.

Furthermore, the Commission notes that BellSouth's LNP flow-through (F.1.3.1-F.1.3.4) performance was better than the benchmark of 85% in June 2001 and July 2001, and missed it by 0.6% in August 2001. Finally, the Commission expects that BellSouth's flow-through rates will improve as a result of the Flow-Through Improvement Task Force created at the direction of the GPSC in Docket No. 7892-U. Although the CLPs complain about BellSouth's excessive use of manual processing to handle CLP orders, the FCC accepts that not all CLP service requests flow-through. Indeed, the FCC has recognized that some service requests properly could be designed to fallout for manual processing.[98]

BellSouth has established a Flow-Through Improvement Program Management process that includes seven different internal organizations. Ongoing analysis is being done to determine trends and identify flow-through problems. Fifteen system enhancements had been identified and targeted for Encore releases; three of the enhancements were implemented in August 2001 and the remainder of the enhancements were planned for release between October 2001 and January 2002. However, according to ¶146 and footnote 520 of the FCC *GALA II Order*, BellSouth has actually enumerated 18 flow-through improvement features of which six were from the Flow Through Task Force List; eight of these improvements have been implemented and the other 10 improvements were targeted for implementation in May 2002.

The FCC found in its *GALA II Order* that BellSouth's OSS are capable of flowing through UNE orders in a manner that affords competing carriers a meaningful opportunity to compete and resale orders in substantially the same time and manner as it does for its own retail customer orders. (*GALA II Order*, ¶143)

Finally, in its *GALA II Order*, the FCC rejected arguments that too many orders fall out by design or cannot be ordered electronically. (*GALA II Order*, ¶149)

Jeopardy Notices

One other factor that the FCC considers in assessing nondiscriminatory access to ordering functions is the timeliness within which a BOC provides notice that a service installation due date will be missed.[99] The service quality measurement for Average Jeopardy Notice Interval requires that BellSouth give at least 48 hours notice on 95% of the orders placed in jeopardy.

BellSouth's performance data show that BellSouth routinely satisfies most sub-metrics for Average Jeopardy Notice Interval each month. However, BellSouth has advised the Commission that it cannot rely upon this measure because the Average Jeopardy Notice Interval captures the time interval between when the jeopardy notice is sent and when the jeopardy condition is cleared, when it should capture the time interval between the sending of the jeopardy notice and the original due date. BellSouth has stated that it is in the process of implementing coding and system changes to address these problems. These changes were to take effect in October 2001. However, as noted in ¶156 of the FCC *GALA II Order*, BellSouth actually implemented its coding change beginning with its January 2002 data for the Average Jeopardy Notice Interval metric.

The Commission does not believe that the absence of reliable jeopardy notice performance data precludes a finding that BellSouth is providing nondiscriminatory access to OSS ordering functions. First, the timeliness by which BellSouth provides jeopardy notices has not been an issue raised by many CLPs, which the Commission finds is indicative that BellSouth is providing timely jeopardy notices. Second, it is important to note that relatively few orders are actually placed in jeopardy by BellSouth. For, example, for the months of June 2001 through August 2001, only between 0.12% and 0.28% of all

Loop + Port Combination (B.2.5.3) orders were placed in jeopardy. Third, even when an order is placed in jeopardy, BellSouth rarely misses its installation appointments or at least does not do so with any greater frequency for the CLPs than for its retail customers, as is discussed in greater detail hereinafter. This shows that BellSouth has been able to manage its workload effectively so that the due date is not missed, even on those orders placed in jeopardy. Under the circumstances, the Commission concludes that BellSouth is providing jeopardy notices in a manner that provides CLPs a meaningful opportunity to compete. Furthermore, the Commission notes that in ¶156 of the FCC *GALA II Order*, the FCC found that since the implementation of the coding changes "BellSouth has submitted data demonstrating that, in general, it provides jeopardy notices to competing LECs and to its own retail operations in the same time and manner."

(iii) Provisioning Functions

The Commission finds that BellSouth is providing nondiscriminatory access to provisioning functions. The record establishes that BellSouth provisions CLP orders in substantially the same time and manner as retail orders.[100] Furthermore, the Commission notes that the FCC, in its *GALA II Order* in ¶166, found that "[b]ased on the evidence in the record demonstrating that BellSouth generally provisions competitive LEC orders in a nondiscriminatory manner, we conclude that BellSouth is in compliance with this checklist item."

During the months of June 2001 through August 2001, BellSouth met or did better than the recommended analogue for UNE Order Completion Interval (OCI) submetrics 82%, 89%, and 96% of the time, respectively. The Commission reviewed OCI submetrics for Loop + Port Combinations (B.2.1.3.1.1 - B.2.1.3.2.4), Other Design (B.2.1.14.1.1 - B.2.1.14.2.2), and Other Non-Design (B.2.1.15.1.1 - B.2.1.15.2.2) submetrics in conjunction with Checklist Item 2. The other UNE provisioning submetrics will be reviewed in each associated individual checklist item.

The data for June 2001 through August 2001 indicate that the following two products did not meet the applicable retail analogues: OCI - Loop + Port Combinations/<10 circuits/Non-Dispatch (B.2.1.3.1.2) for June and July and OCI - Loop + Port Combinations/<10 circuits/Dispatch-In (B.2.1.3.1.4) for July. Item B.2.1.3.1.4 (Dispatch-In) is a further disaggregation of item B.2.1.3.1.2 (Non-Dispatch) and it was reported for the first time with July 2001 data. The unadjusted order completion interval for the Non-Dispatch submetric was 1.16 days in July 2001 compared to 0.97 days for the retail analogue. The unadjusted OCI for the Dispatch-In submetric was 1.76 days compared to 1.62 days for the retail analogue. A root cause analysis for OCI for Non-Dispatch orders revealed that BellSouth was offering a zero- to two-day interval on retail "nondispatched" POTS orders, but the wholesale orders were incorrectly receiving the same longer interval as "dispatched" orders. BellSouth is currently reviewing the programming change to correct this issue. The Commission expects BellSouth to take all the necessary steps to correct this nondispatched interval issue.

In addition to the appointment interval issue, OCI is adversely affected by LSRs for which CLPs request intervals beyond the offered interval, and an "L" code is not entered on the order. When a CLP requests an interval beyond the normal interval offered by BellSouth, an "L" code should be entered on the service order. "L" coded orders are excluded from the OCI metrics. BellSouth met the retail analogue comparison for these submetrics in August 2001.

Items B.2.21 and B.2.22 of the MSS reports provide data for the Average Completion Notice Interval (ACNI) measurements. For June 2001 through August 2001, in regards to Loop + Port Combinations, Other Design, and Other Non-Design products, BellSouth did not meet the required benchmarks/analogues on the following two sub-metrics: ACNI - Loop + Port Combinations/<10 circuits/Dispatch (B.2.21.3.1.1) for June and ACNI - Loop + Port Combinations/<10 circuits/Non-Dispatch (B.2.21.3.1.2) for June.

BellSouth determined that the only differences between the BellSouth retail and CLP data are the mismatches found when the orders are compared with the original LSRs. Changes to items such as the name or number of items to be installed during the provisioning process will generate inconsistencies with the original LSRs that must be resolved before a final completion notice can be sent. BellSouth attributes the higher number of misses to the numerous CLP changes and order updates combined with the smaller base for the CLPs' measurement. Specific service representatives within the Work Management Centers have been assigned to resolve any completion issues that are required. According to BellSouth, providing specific training and dedicating personnel to this task should reduce the difference between the CLP and retail analogue results. BellSouth met the retail analogue comparisons for these submetrics in July 2001 and August 2001.

Missed Installation Appointments

For the months of June 2001 through August 2001, BellSouth's performance with respect to Missed Installation Appointment (Item B.2.18) standards was as follows:

June 2001:	BellSouth met 23 of 24 loop submetrics
July 2001:	BellSouth met 24 of 29 loop submetrics
August 2001:	BellSouth met 25 of 29 loop submetrics

BellSouth completed more than 99.3% of all installations in the overall Loop + Port Combinations/<10 circuits/Non-Dispatch submetric completed as scheduled in July 2001 and August 2001. Over 99% of the installations for the Loop + Port Combinations/<10 circuits/Dispatch-In submetric were completed as scheduled. The Commission agrees with BellSouth that though the z-test shows that the measurement does not meet the fixed critical value when compared to the retail analogue, BellSouth's actual performance for both CLPs and itself exceeds 99%. Thus, this statistically significant difference should not impede the CLPs' ability to compete.

BellSouth completed installations of 12 of the 14 orders scheduled for the Other Non-Design/<10 circuits/Dispatch submetric in July 2001. The Commission agrees with BellSouth that the two missed completion due dates do not reveal any discrete pattern or systemic installation issues. BellSouth met the retail analogue comparison for this sub-metric in June 2001 and August 2001.

(iv) <u>Maintenance and Repair Functions</u>

The Commission finds that BellSouth provides nondiscriminatory access to maintenance and repair interfaces. Based on the availability and timeliness of BellSouth's maintenance and repair interfaces, the timeliness of its repair work, and the quality of the repair work, the Commission concludes that BellSouth is providing maintenance and repair work for CLPs at the same level of quality that it provides for retail customers.[101] Furthermore, the Commission notes that the FCC, in its *GALA II Order* in ¶169, stated as follows:

> We conclude, as did the Georgia and Louisiana Commissions, that BellSouth provides nondiscriminatory access to its maintenance and repair OSS functions. We find that BellSouth has 'deployed the necessary interfaces, systems, and personnel to enable requesting carriers to access the same maintenance and repair functions' that BellSouth provides itself. Moreover, competing carriers have access to these functions 'in substantially the same time and manner' as BellSouth's retail operations, and with an equivalent level of quality. [Footnotes omitted]

BellSouth's performance data reveal that it met the applicable performance standards for 85%, 87%, and 88% of the overall maintenance and repair measurements for June, July, and August 2001, respectively. For example, in June, July, and August 2001, the availability of the TAFI and ECTA interfaces (D.2.2.1 and D.2.2.2) met or exceeded the 99.5% availability benchmark. BellSouth also provides timely maintenance and repair responses. In June, July, and August 2001, for example, the response interval experienced by CLPs accessing BellSouth's maintenance and repair systems was in most instances comparable to that of BellSouth's retail operations.

However, for certain measures that capture the legacy system access times for maintenance and repair functions, the percentage of requests received in less than four seconds was greater for BellSouth retail than for the CLPs. For the months of June, July and August 2001, BellSouth missed submetrics D.2.4.1.1 (CRIS <= 4 seconds), D.2.4.5.1 (LMOSupd <= 4 seconds), D.2.4.5.2 (LMOSupd <= 10 seconds), D.2.4.5.3 (LMOSupd > 10 seconds), and D.2.4.6.1 (LNP < = 4 seconds). Nevertheless, the Commission believes that these measures must be read in context.

First, the Commission notes that the difference in the percentage of responses received in less than four seconds was, for the most part, extremely small. For example, CLPs received 94.89% of their responses in less than four seconds from the CRIS legacy system, as compared to 95.69% for BellSouth retail in August 2001, and CLPs received 99.42% of their responses in less than four seconds from the LNP legacy systems, compared to 99.76% for BellSouth retail in August 2001. In the Commission's view, differences of this magnitude between the percentages of responses received within four seconds by BellSouth retail and the CLPs does not significantly impact the CLPs' ability to compete.

Second, the Commission notes that BellSouth reports its response interval performance based on the percentage of responses received in less than four seconds, the percentage of responses received in less than ten seconds, and the percentage of responses received in more than ten seconds. As a result, looking at only one of these intervals in isolation can be misleading. For example, with respect to the CRIS legacy system, while the percentage of requests received in less than four seconds was greater for BellSouth retail than for the CLPs, in June, July, and August 2001, CLPs received a greater percentage of requests from CRIS in less than ten seconds than did BellSouth retail during the same time period. The Commission believes that, when viewed as a whole, the performance data reflect that CLPs are receiving timely responses from BellSouth's Maintenance and Repair OSS, notwithstanding some slight differences in the percentage of requests received by CLPs and BellSouth retail.

The Commission has previously considered AT&T's argument concerning the alleged discriminatory nature of the electronic trouble reporting systems BellSouth provides to competitors (i.e., TAFI and ECTA) in the AT&T/BellSouth arbitration,[102] and subsequently referred the issue to the CCP for consideration. The FCC does not require a BOC to provide a machine-to-machine maintenance and repair interface.[103] Furthermore, in the FCC *GALA II Order*, in ¶171, the FCC states that:

> [c]ontrary to the Commission's previous findings, BellSouth demonstrates that TAFI is not integrated with other BellSouth systems and that competitive LECs have equivalent access to the same functionality and information as BellSouth retail representatives. We also reject AT&T's argument that because ECTA is inferior to TAFI, users of ECTA do not have equivalent access to maintenance and repair functions. We reject this argument on the same basis as did the Georgia and Louisiana Commissions, finding BellSouth's offer to include the functionality of TAFI into ECTA if AT&T pays for the development costs reasonable and nondiscriminatory because, as described above, competitive LECs have the same access to maintenance and repair functionality as BellSouth's retail operations. [Footnotes omitted]

Thus, the Commission finds that BellSouth is not required to provide a machine-to-machine maintenance and repair interface in order to provide nondiscriminatory access to maintenance and repair OSS. Further, the Commission finds that BellSouth should continue to make the Bonafide Request option available to AT&T such that, if it so chooses, AT&T may obtain the additional functionality it desires in this regard.

In finding that BellSouth is providing nondiscriminatory access to maintenance and repair interfaces, the Commission also reviewed the Missed Repair Appointments, Maintenance Average Duration, and Percent Repeat Troubles Within 30 Days performance measures.

Missed Repair Appointments

BellSouth met 15 out of 16 Missed Repair Appointment analogues for all UNE sub-metrics for June 2001, 14 out of 16 for July 2001, and 18 out of 18 for August 2001. BellSouth did not miss any submetric more than once from June 2001 through August 2001.

Maintenance Average Duration

BellSouth met 14 out of 16 of the maintenance average duration analogues for all UNE submetrics for June 2001, 15 out of 16 of the maintenance average duration analogues for all UNE submetrics for July 2001, and 17 out of 18 maintenance average duration analogues for August 2001. Submetric B.3.3.6.2 (UNE ISDN/Non-Dispatch) was missed all three months. BellSouth has shown steady improvement in this submetric. The Commission agrees with BellSouth that the data does not reveal any systemic maintenance issues associated with these orders.

Percent Repeat Troubles Within 30 Days

BellSouth met 13 out of 16 Percent Repeat Troubles Within 30 Days analogues for all UNE submetrics for June 2001, 14 out of 16 for July 2001, and 16 out of 18 for August 2001. BellSouth missed submetric B.3.4.7.2 (Line Sharing/Non-dispatch) each of the three months. However, there were only 6 repeat troubles in June, 8 repeat troubles in July, and 7 repeat troubles in August. The Commission agrees with BellSouth that, while the modified Z-scores indicate less than the retail analogue comparison, the small universe for this measurement does not provide a statistically conclusive comparison with the retail analogue for these months.

(v) Billing Functions

The Commission finds that BellSouth is providing nondiscriminatory access to billing functions. The Commission concludes that BellSouth provides complete and accurate reports on the service usage of CLP customers in substantially the same time and manner that BellSouth provides for itself. The Commission also concludes that BellSouth provides complete and accurate wholesale bills in a manner that gives CLPs a meaningful opportunity to compete.[104] BellSouth met the Invoice Accuracy metric (B.4.1) June through August 2001 and the Mean Time to Deliver Invoices-CRIS metric (B.4.2) for the same period. Furthermore, the Commission notes that the FCC in its *GALA II Order* also found, as stated in ¶173, that "BellSouth provides nondiscriminatory access to its billing functions" and also noted in ¶175 that "in finding that competing carriers have a meaningful opportunity to compete, we rely on third-party testing in Georgia which found BellSouth's billing system to be accurate and reliable."

(b) Third-Party Test

On March 20, 1999, the GPSC established an independent third-party test of BellSouth's OSS to test areas where either BellSouth had not experienced significant commercial usage or where CLPs had expressed concern about operational readiness. The GPSC established a testing plan that identified the areas, OSS functions, and interfaces that the test would examine. BellSouth filed the MTP that was adopted by the GPSC. KPMG played no role in the design of the MTP in Georgia. There is conflicting evidence in the record concerning who drafted the original MTP in Georgia. According to BellSouth witness McElroy in rebuttal testimony:

> The initial Georgia Master Test Plan was jointly developed by BellSouth and HP, the initial Test Manager and approved by the Georgia Commission. However, to improve the clarity of test definitions, KPMG filed revisions to the MTP with the Georgia Commission on October 15, 1999, December 15, 1999, and March 31, 2000. In addition, KPMG developed its own independent test plan for each test and utilized standards provided by the Georgia Commission. (Test. of McElroy, Tr. Vol. 5, Pg. 121)

However, according to KPMG witness Weeks, Ernst and Young designed the original MTP. During cross-examination, the following exchange between witness Weeks and AT&T counsel Mr. Barber occurred:

> Q. The original design [of the MTP] was done by Ernst and Young; is that correct?
>
> A. Yes, I believe that's correct.
>
> Q. Ernst and Young originally drafted what became the master test plan in Georgia?
>
> A. I believe that's correct.
>
> (Test. of Weeks, Tr. Vol. 6, Pgs. 15-16)

KPMG became test manager after the testing had begun, and thus it makes no warranties regarding the MTP or the testing work prior to its involvement. In fact, KPMG states, in part, in paragraph 4 of its Statement of Limiting Conditions of its Final Report:

Furthermore, KCI has not independently verified the accuracy or completeness of the information and work product provided by these third parties. Accordingly, KCI expresses no opinions nor bears any responsibility for this information or work product.

KPMG does not believe inheriting a test design rather than developing the design itself impaired its independence. KPMG did not rely on any of the testing that occurred previous to becoming test manager in rendering its opinion to the GPSC. Subsequently, KPMG filed revisions to the MTP and participated in the design of the STP along with the GPSC. Although there was not much CLP involvement initially in the Georgia test, during the subsequent testing, CLPs provided substantial input, as did regulators and other interested parties. The test in Georgia is the only test in which KPMG has been the test manager but did not have a role in the design of the test. (Test. of Weeks, Tr. Vol. 6, Pgs. 11- 21, 111-115, and 129-130)

On March 20, 2001, KPMG filed its Final Report and Opinion Letter, analyzing every evaluation criterion from the MTP, STP, and Flow-Through Plan and categorizing it as being satisfied, not satisfied, no result determination made, or not complete. KPMG found that BellSouth had satisfied all of the evaluation criteria for pre-ordering, maintenance and repair, billing, capacity management, flow through, and change management. In KPMG's Final Report, the "not satisfied" evaluation criteria covered 16 tests involving fully and partially mechanized orders. KPMG also indicated that its metrics evaluation was not complete and that KPMG would file a supplemental report on the outstanding metrics criteria with the Georgia Commission as soon as the metrics evaluations are complete. KPMG also found that while BellSouth satisfied the great majority of ordering and provisioning evaluation criteria, there were three areas that were unsatisfied which could have an adverse impact on competition. These areas were (1) the timeliness of responses to fully mechanized orders, (2) timeliness and accuracy of clarifications to partially mechanized orders, and (3) accuracy of translation from CLP to BellSouth service orders resulting in switch translation and directory listing errors. However, KPMG found that the GPSC could monitor these issues on an on-going basis through its performance measures and enforcement plans to determine whether these problems continued and the appropriate remedy. (Test. of Pate, Tr. Vol. 3, Pgs. 286-301 and Pate Exhibits OSS-64 through OSS-67)

In the Georgia third-party test, KPMG ran normal and peak volume tests but not stress tests, as they were not required by the MTP. The peak volume tests were not run on the ENCORE systems that BellSouth uses, but in a test environment called RSIMMS. At the time of the peak testing, the RSIMMS computers had more computing power than those used for ENCORE. BellSouth informed KPMG that its ENCORE systems could not support the anticipated volumes expected in 18 months that the peak testing would assess. The ENCORE system is a wide-area network, while RSIMMS is a local-area network, and the two systems use different types and numbers of servers. RSIMMS had a 20% faster computing performance than ENCORE. Without backup, RSIMMS performed 60% faster than ENCORE. In KPMG's summary of RSIMMS in Paragraph 5 of the MTP, KPMG states:

> . . . KCI is not aware of any reasons and is satisfied that these same changes could be made to the production environment of ENCORE such that it could support the same volumes as were tested in the volume evaluation.

During the Georgia third-party test hearing, Mr. Weeks of KPMG and Mr. Barber, counsel for AT&T, engaged in the following Questions and Answers:

> Q. Wouldn't you agree that the volume tests that you performed do not prove that BellSouth's regular production system, the ones that CLECs will have to use, can currently pass the volume tests ordered by this Commission?
>
> A. The work that we did would not demonstrate either way whether they could or couldn't.
>
> Q. And would you agree that you have performed no test that assures that BellSouth could increase the capacity on ENCORE to a level necessary to pass the volume tests?
>
> A. We have done no demonstration that that's true.

However, KPMG could not say that its volume testing would show that BellSouth's actual systems could pass the volume tests. It also did not test whether CLP operations would be impacted while ENCORE was upgraded. Of the third-party testing with which KPMG has been involved, the Georgia test was the only time an artificial environment was used for volume testing. Money was a factor in BellSouth's decision not to upgrade its systems so that they would pass the volume testing. It is KPMG's belief that the hardware in the production environment has been upgraded since the production volume testing. (Test. of Weeks, Tr. Vol. 6, Pgs. 54-73, and 132)

When KPMG initially reviewed the process for xDSL ordering by CLPs, it was entirely manual, while BellSouth's retail ADSL ordering was an online mechanized process. As a result, KPMG found that the CLPs were experiencing discriminatory treatment in this regard and issued an exception. When BellSouth later rolled out electronic ordering for xDSL loops for CLPs, KPMG examined the documentation for the new functionality and then found the process to be nondiscriminatory. However, KPMG did not conduct any feature function evaluation. (Test. of Weeks, Tr. Vol. 6, Pgs. 84-92)

The CLPs have criticized the scope of the Georgia test and request that this Commission wait for the results of the third-party test in Florida before making a recommendation to the FCC on BellSouth's application for Section 271 authority. BellSouth requests that we utilize the results of the Georgia third-party test in making our determination. All parties seem to agree that the Florida test has a greater scope and that it tests more recent OSS. However, the central question is not which test is the best, but whether the Georgia test is adequate to assist this Commission in determining whether BellSouth satisfies the 14-point checklist. The Commission believes that it is. The Florida test is not squarely before us. We have testimony about the areas tested, open exceptions, and the test design, but we do not have the results, and it is unclear when they will be released. BellSouth has chosen to rely on the Georgia third-party test, and thus we review the results and conduct of that test.

The Commission notes with favor the fact that KPMG has conducted several third-party tests, including the New York and Massachusetts tests, which the FCC found to be persuasive.[105] The FCC has stated that the conditions and scope of third-party testing are critical in its decision on how much weight to give such testing. The FCC looks for independence, a military-style testing philosophy, efforts of the tester to put itself in the place of an actual market entrant, and efforts to maintain blindness when possible.[106] This Commission believes that the Georgia third-party test meets these criteria. The Commission is not persuaded by AT&T's attempt to impugn the independence of KPMG. The fact that the contract for the testing was between BellSouth and KPMG, rather than between the GPSC and KPMG, does not show a lack of independence when the GPSC refused to enter into such a contract for legal reasons. There has been no evidence presented that KPMG exhibited any bias in favor of BellSouth. The testing was clearly military-style; KPMG acted as an actual market entrant and made all reasonable efforts to maintain blindness. Thus, this Commission will give great weight to the third-party test in Georgia.

If one of the evaluation criteria mapped a performance standard set by the GPSC, KPMG used that standard. If there was not a Georgia Commission approved standard, KPMG exercised its professional judgement or created its own standard. While the difference between a function BellSouth provided to both its retail side and to CLPs might be statistically significant, KPMG exercised its professional judgement on several tests and found the criteria to be satisfied if the function for CLPs was performed in a reasonable time frame or if the statistical margin was not great. The Commission notes that the FCC has concluded that in some cases, while a statistically significant difference may exist, the difference has little or no competitive significance in the marketplace.[107] KPMG did not conduct any independent research to arrive at its professional judgement. It consulted internally with its professional staff, which has been involved in a number of other third-party tests. The GPSC was or should have been aware that KPMG was exercising its professional judgement in some cases where an exception had been noted. Prior to issuance of its final report, KPMG sent drafts to BellSouth to review solely for factual accuracy. No drafts of the report were sent to CLPs. In its report, KPMG stated that in its opinion there were no deficiencies creating potentially material adverse impacts on competition in the areas of pre-ordering, billing, maintenance and repair, capacity management, change management, and flow-through. (Test. of Weeks, Tr. Vol. 6, Pgs. 21-53 and 117)

The Commission finds AT&T's criticism that KPMG acted incorrectly by basing some of its conclusions on the exercise of its professional judgement to be unpersuasive. KPMG has the background and experience to enable it to properly analyze the data and determine whether any differences are competitively significant. KPMG would have fallen short of its duty as test manager if it had applied the Georgia performance standards on a purely pass/fail basis without delving into the degree or magnitude of difference between BellSouth's performance and the standard.

The CLPs' contentions that they were denied an opportunity to provide input or participate in the Georgia third-party test are also unpersuasive. CLPs provided input to the formation of the MTP and the STP and filed comments on the two test plans, as well as on KPMG's status reports. They had the opportunity to respond to each of KPMG's interim status reports, participate in weekly conference calls, be interviewed by KPMG, and review exceptions and meeting minutes on a website. CLPs also supplied test scenarios and submitted selected orders for KPMG and participated in the testing by submitting LNP and xDSL requests. While CLPs may have a greater role in the third-party testing in Florida, they certainly had a role in the Georgia testing.

In summary, the Commission believes that it can build on the work of the GPSC by accepting the results of the third-party testing conducted in Georgia to determine whether BellSouth is complying with the 14-point checklist and especially Checklist Item 2. We find that the Georgia test was comprehensive and that KPMG performed its role as test manager in an unbiased and professional manner. Thus, we accede to KPMG's professional judgement that BellSouth has satisfied the vast majority of the evaluation criteria in the test. We acknowledge the unsatisfied criteria and the items for which the evaluation is not yet complete. We believe that the performance measures we adopted in our May 22, 2002 *Order Concerning Performance Measurements and Enforcement Mechanisms* will enable us to monitor these areas and assure us that BellSouth will pay penalties as necessary under our remedy plan. Finally, we note that the FCC concluded in its *GALA II Order*:

> Based on our review of the evidence in the record describing the test process, and on the assurances provided by the Georgia Commission, we find that the results of KPMG's test in Georgia provide meaningful evidence that is relevant to our analysis of BellSouth's OSS. We also note that BellSouth does not rely on the results of the KPMG test alone, but also relies on evidence of significant commercial usage in Georgia. [¶108 with footnotes omitted]

We find it appropriate to also rely on the results of KPMG's test in Georgia in addition to the evidence of significant commercial usage in North Carolina.

(c) Regionality of OSS

The FCC has held that state commissions may build on the work of other states in their region when conducting their Section 271 reviews.[108] When access to OSS is provided through regional processes, both region-wide and state-wide evidence should be considered.[109] Information from another state may be used to supplement information of a state when OSS are essentially the same in that region.[110] However, there must be a single OSS or separate, but identical, OSS which reasonably can be expected to behave the same way in each state.[111] If there are separate OSS, the BOC must show that it is probable that the OSS will perform the same in all the states in the region.[112]

BellSouth asserts that it has a single set of OSS operating region-wide, using a common set of processes, business rules, interfaces, systems, and personnel. CLPs throughout the BellSouth region access the OSS through the same set of electronic interfaces. Manual processes are divided and handled by carrier, not region, and the training of personnel and coordination of activities for these manual processes are the same region-wide.

We conclude that the PwC attestation verifies that the OSS systems, processes, and procedures for pre-ordering and ordering are the same and that DOE and SONGS are comparable. This attestation serves the same purpose as the attestation filed in the Kansas-Oklahoma Section 271 application, which the FCC found to be adequate to show the regionality of the OSS in those states.

AT&T and Sprint insist that there are differences in BellSouth's OSS within the region and that performance may differ between states. The FCC has said that the performance of an RBOC in one state is relevant in evaluating other states to the extent that the RBOC demonstrates that it uses common systems and processes in the states in question.[113] Indeed, this Commission doubts that there could be identical performance in any two states when the CLPs and their offerings differ by state. The types and volume of orders CLPs submit can lead to differences in performance of the OSS from one state to another, despite there being region-wide OSS.

BellSouth has shown that it uses the same business rules for ordering and pre-ordering and the same legacy systems, other than DOE and SONGS, throughout its region. We find that PwC's independent evaluation confirms that there is no material difference in functionality or performance of DOE and SONGS. Moreover, North Carolina uses DOE, as does Georgia.

AT&T claims that the use of several servers within the region results in differing performance. However, to the extent different servers are used, they use the same programming code and are designed to operate in an indistinguishable manner. The FCC rejected this argument in the Kansas/Oklahoma Section 271 proceeding,[114] and this Commission rejects it as well.

BellSouth contends that the preferential treatment the LCSCs accorded to orders from Georgia and Florida is no longer occurring. The Commission accepts this contention but strongly cautions BellSouth against such behavior in the future. Unfair treatment of CLPs in North Carolina is not acceptable regardless of whether other states are going through third-party testing or have imposed more stringent performance measures. If any other evidence of preferential treatment is uncovered or occurs in the future, BellSouth will be expected to notify this Commission immediately and provide a full explanation.

The Commission notes that the FCC has considered the exact same PwC attestation filed into evidence in this docket in the Georgia/Louisiana Section 271 applications. In its *GALA II Order*, the FCC stated

> We conclude that BellSouth, through the PwC review and other aspects of its application, provides sufficient evidence that its electronic processes are the same in Georgia and Louisiana. In conducting its review, PwC examined the consistency of applications and technical configurations used to process pre-ordering and ordering transactions region-wide, and reviewed the consistency of documentation of systems and processes in BellSouth's local carrier service center. PwC observed transactions, reviewed user guides, performed change control review, and interviewed relevant BellSouth service representatives in making its determination that BellSouth's OSS systems for pre-ordering and ordering are identical. PwC also reviewed the consistency of Local Service Requests (LSRs) for order entry, LSR screening and validating procedures, and various servicing processes to conclude that there is "no material difference in functionality or performance" between DOE and SONGS. In addition to PwC's review, the record indicates that the BellSouth OSS for pre-ordering and ordering functions does not distinguish between Georgia and Louisiana. [¶110 with footnotes omitted and emphasis added]

The Commission does not believe that the record in North Carolina provides any evidence that North Carolina's OSS are in any way different from the OSS used in Georgia and Louisiana. Therefore, the Commission concludes that BellSouth's OSS are the same throughout the BellSouth region. Thus, BellSouth may supplement its actual North Carolina data with information about the third-party test in Georgia to demonstrate its compliance with Checklist Item 2.

(d) Change Management Process

The Commission has considered the operation of the Change Control forum in several arbitrations. In the most recent AT&T/BellSouth arbitration,[115] the Commission ordered the parties to refer several issues to the CCP for further action. The Commission ruled in the AT&T/BellSouth arbitration that the CCP is the proper venue to address CLP requests regarding electronic submission and/or flow-through of specific types of service requests. We continue to believe that since the CCP is composed of CLPs from across the BellSouth region that vary widely in size and business plans, it is preferable for the forum as a whole to consider change requests which will have an impact on all CLPs. For instance, WorldCom makes a good case for its need for the interactive agent in its testimony here, yet the CCP gave this request a low priority. The Commission is disinclined to require BellSouth to offer a service which may be expensive and which will receive little use by the CLPs. Furthermore, in Georgia, where WorldCom provides a substantial amount of local service, the GPSC also considered the request for the interactive agent and declined to require it.

The Commission declines to use the results of the Georgia 1000 Test instead of KPMG's third-party test to assess whether BellSouth provides nondiscriminatory access to the UNE-P. Testimony from both BellSouth and AT&T reveals that the Georgia 1000 Test had a number of problems caused by both parties. It appears to the Commission that the testing was flawed in a number of ways, which makes its results suspect. The commercial usage numbers for UNE-P ordering in North Carolina and Georgia, i.e., 42,843 LSRs for UNE-P in July 2001, show that CLPs are successfully ordering this product.

The Commission finds that BellSouth generally adheres to the CCP and that the CCP is an adequate systems change management process.[116] BellSouth admits that it has not always strictly obeyed the requirements of the CCP, including providing timely responses to change requests. However, it appears that BellSouth generally has responded within the requisite interval approximately 90% or more of the time, except when BellSouth received a large number of Type 6 defects in a single day. We encourage BellSouth to make every effort to conform to the dictates of the change control document and note that the CLPs have the opportunity to file a complaint with this Commission regarding BellSouth's adherence to the CCP. Finally, the Commission notes that the FCC made the following conclusions on BellSouth's adherence to the change management process in its *GALA II Order* in ¶192 as follows:

> BellSouth demonstrates that it validates change requests for acceptance into the process in a timely manner and in accordance with the 10-day interval specified by the Change Control Process. During the fourth quarter of 2001, BellSouth met this interval for 18 out of 19 requests. We reject AT&T's claim that BellSouth failed to meet this 10-day interval for validating a specific set of change requests. All of these change requests were submitted for validation before the 10-day interval was a part of the Change Control Process and, therefore, we do not find that BellSouth fails to adhere to its process. [Footnotes omitted]

The Commission does not agree with AT&T and WorldCom that the absence of a *"go/no-go decision point"* may cause CLPs to cut to a new release prematurely. Instead, pursuant to the CCP, CLPs are notified by a set schedule about the implementation of new interfaces and program release updates. Further, it is BellSouth's policy to support two versions of industry standard interfaces. These safeguards should adequately prevent a CLP from cutting over to a new release too soon.

Further, the Commission notes that the FCC agreed with our findings on the absence of a "go/no-go decision point" in its *GALA II Order* in ¶181, as follows:

> The Commission looks for 'mechanisms to ensure the timely and effective transition from one [interface] release to another', thus showing that competitors have a meaningful opportunity to compete. We find that BellSouth's versioning process, which allows competing carriers to continue to use an old version of the interface after a new one is released, provides a mechanism sufficient to protect competing carriers from premature cut-overs and disruptive changes to their interfaces to BellSouth's OSS. In addition, competing carriers are able to provide input at release package meetings before a release. Therefore, we reject the assertion that the lack of a process whereby competing carriers can decide whether or not to implement a new release (i.e., 'go/no-go' vote) deprives competitors [of] a meaningful opportunity to compete, despite BellSouth's versioning process. We encourage BellSouth to continue to accept and consider any input from competitive LECs regarding software problems they discover during testing before BellSouth decides to implement a new software release. [Footnotes omitted]

The Commission heard testimony from AT&T in the most recent AT&T/BellSouth arbitration[117] alleging that BellSouth exercised veto power over the CCP. Nonetheless, this Commission determined that the CCP was an effective means for BellSouth to communicate with CLPs regarding the performance of and changes to the OSS affecting interconnection and market access. The escalation and dispute resolution processes within the CCP further protect CLPs. The Commission notes that it has not received any complaints from CLPs about the CCP. The Commission agrees with BellSouth that it should be able to determine whether a change request would be technically infeasible or would require it to make a substantial financial investment for limited utilization by CLPs. However, it is unlikely that a change request that would benefit only a few CLPs would be prioritized very highly by the CLPs as a whole. Thus, the Commission does not find that BellSouth exerts undue control over the CCP by vetoing change requests supported by a majority of the forum.

Again, the Commission notes that the FCC has agreed with our conclusions, in this regard, in its *GALA II Order* in ¶184. Therein, the FCC stated:

> We reject commenters' allegations that BellSouth utilizes a 'veto power' to deny change requests from acceptance into the Change Control Process. While BellSouth retains some discretion about whether requests are accepted into the process, BellSouth must justify its decisions within a 10 business-day interval based upon reasons specified by the Change Control Process and BellSouth's decision is subject to appeal. Just as the Georgia and Louisiana Commissions found, we find the Change Control Process is designed to allow substantial input by competing carriers and provides sufficient channels of appeal to address complaints about the process. [Footnotes omitted]

However, as a result of the testing in Florida, it has come to light that after the CCP prioritizes change requests, BellSouth internally reprioritizes the items and combines them with internal change requests. While the Commission understands that BellSouth must be able to implement necessary OSS changes quickly, we find that CLPs should be given notice of and justification for all changes which impact them. The Commission notes that the FCC has addressed the issue of prioritizing change requests in its *GALA II Order* in ¶193. Therein, the FCC stated:

> We find that BellSouth adheres to the Change Control Process by demonstrating that it implements change requests prioritized by competing carriers through the Change Control Process. BellSouth explains that, especially over the past six months, it has implemented a large number of change requests. BellSouth also has scheduled for implementation this year fifteen of the top ranked change requests still outstanding, many of which have now been implemented. Moreover, BellSouth has demonstrated sufficient capacity in its future releases to be able to implement a significant number of change requests, including backlog times to the extent carriers choose to prioritize these. While we find BellSouth's performance to be adequate, we note that it is important that BellSouth continue to work collaboratively with competitive LECs through the Change Control Process on prioritization issues, provide competitive LECs with sufficient information to be able to make informed decisions regarding prioritization of proposed systems changes, and implement changes in a timely manner. Should any problems in this regard develop such that the requirement of section 271 are no longer met, we are prepared to take appropriate enforcement action. [Footnotes omitted]

Accordingly, the Commission now believes that BellSouth has made the necessary modifications to the CCP and its internal operations so that CLPs will have adequate notice of all changes that affect them, whether they are processed through the CCP or elsewhere.

While BellSouth has created the CAVE testing environment, it does not appear based on our record of evidence that there has been sufficient usage of it by CLPs to determine whether it is effective at this time. AT&T and WorldCom both testified that they had not yet taken the necessary steps to utilize the test environment before it became unavailable for some time for BellSouth to upgrade it. As such, it was not clear based on our record of evidence whether CLPs had an adequate opportunity to test interfaces. The Commission also notes that the United States DOJ, when evaluating BellSouth's initial application for Section 271 authority in Georgia, expressed concern about the need for an independent testing environment.[118] However, in its second evaluation, issued March 21, 2002, the United States DOJ stated that "the scheduled availability of the CAVE system, however, has been substantially improved for the balance of this year [2002] and that should facilitate its effective use by the CLECs." The Commission also notes that the FCC, in its *GALA II Order* in ¶187, found that "both BellSouth's [Competitive LEC] Application Verification Environment (CAVE) and 'original' testing environments allow competing carriers the means to successfully adapt to changes in BellSouth's OSS. Additionally, in the *GALA II Order* in ¶190, the FCC also stated as follows:

> In addition, we disagree with commenters' assertions that CAVE is not sufficiently available. We find BellSouth demonstrates that, in December 2001 and January 2002, it expanded the availability of CAVE by scheduling availability around releases for the remainder of the year. The Commission has never previously required a full-time testing environment and we find the window of CAVE availability around releases is consistent with our precedent. We also reject the assertion that CAVE has insufficient capacity as no competing carrier has alleged an inability to submit a test LSR due to limited capacity. . . [Footnotes omitted]

Thus, the Commission agrees with the FCC that BellSouth's CAVE and "original" testing environments allow competing carriers the means to successfully adapt to changes in *BellSouth's OSS.*

The Commission notes that BellSouth's CCP satisfied all criteria tested by KPMG in the Georgia third-party test. We find that the CCP is an adequate forum for CLPs and BellSouth to work together to improve the method that BellSouth uses to implement changes to its OSS. Based upon the foregoing, the Commission finds that BellSouth's change management procedures afford an efficient competitor a meaningful opportunity to compete by providing sufficient access to BellSouth's OSS. However, the Commission reminds BellSouth that it is very important for it to continue to work collaboratively with CLPs through the CCP on prioritization issues, to provide CLPs with sufficient information to afford the CLPs the opportunity to make informed decisions regarding prioritization of proposed system changes, and to implement changes in a timely manner to maintain the effectiveness of the CCP.

(e) <u>Performance Measures and Data Integrity</u>

This Commission conducted a lengthy hearing and received volumes of testimony in Docket No. P-100, Sub 133k, to establish a set of performance measures and a SEEM for BellSouth. Since a decision had not yet been rendered at the time testimony was filed in this docket, BellSouth requested the Commission to adopt on an interim basis a set of performance measures and standards that have already been established by the GPSC, and if or when the FCC grants Section 271 authority in North Carolina, to adopt the SEEM it proposed in Docket No. P-100, Sub 133k. However, on May 22, 2002, the Commission issued its *Order Concerning Performance Measurements and Enforcement Mechanisms* in Docket No. P-100, Sub 133k. In said Order, the Commission adopted a comprehensive performance measurement plan and remedy plan which was to become effective on June 21, 2002. However, BellSouth has filed a Motion for Reconsideration of the Commission's May 22, 2002 *Order Concerning Performance Measurements and Enforcement Mechanisms*. Therefore, the BellSouth North Carolina-ordered performance measurement plan and penalty plan did not become effective on June 21, 2002, but the effective date will be established at a later time as determined by the Commission. However, the Commission has ordered BellSouth to adopt the Georgia performance measurement plan and penalty plan as of May 23, 2002 which will be in place until the effective date of the North Carolina performance measurement plan and remedy plan (See May 23, 2002 *Notice of Decision*). The Commission notes that due to the timing of the Commission's Order in Docket No. P-100, Sub 133k, all of the performance measurement data filed monthly in this docket is based on BellSouth's proposed interim set of performance measurements and not on the final approved performance measurement plan established by the Commission.

The Commission agrees with BellSouth that the set of performance measures established by the GPSC are sufficient for our purposes in this proceeding and in fact represent the only performance measurement data filed in this docket.

BellSouth must provide reasonable assurance that it reports its performance data consistently and reliably.[119] As part of its third-party test in Georgia, KPMG continues to review BellSouth's performance reports and raw data for their consistency and reliability. The GPSC is also conducting a review of BellSouth's data and performance measures. The data and measures will also be audited by an independent third-party. These review and monitoring mechanisms are at least as stringent as those found by the FCC to be satisfactory in New York.[120]

The Commission notes that its performance measurements plan also provides for annual audits by an independent third-party and annual Commission reviews of the plans. Therefore, the Commission will be monitoring the reliability of BellSouth's performance data for North Carolina on a going-forward basis.

The performance measures are relatively new and encompass over 2,200 sub-metrics. The PMAP processes a huge amount of data each month. The Commission agrees with BellSouth that it is reasonable to rely on its data and reporting, though they are not without their imperfections. The Commission does not believe that the errors in the data and reporting of performance measures pointed out by the opponents to BellSouth's Section 271 application are systemic. Rather, they appear to be isolated incidents that BellSouth either has resolved or is working to resolve.

BellSouth has requested that the Commission not rely on the results of the Firm Order Confirmation and Reject Response Completeness metric and the Average Jeopardy Notice Interval metric. As BellSouth has explained, the Firm Order Confirmation and Reject Response Completeness metric does not correctly capture auto clarifications on fully mechanized LSRs, and a coding error is occurring on partially mechanized LSRs, thus causing the performance to be reported incorrectly. However, as BellSouth points out, there have been few, if any, complaints from CLPs about lost Firm Order Confirmations or reject notices, and there is no evidence that BellSouth has lost orders. Thus, it appears that the problems that this metric would capture are not occurring to a significant extent.

There is also a problem with moving timestamps in the reporting of the Firm Order Confirmation and Reject Notice Timeliness metric. This error causes the actual interval to be slightly longer than BellSouth reports. However, only a small percentage of orders are affected, and the difference in the interval is only several seconds while the benchmark is stated in terms of hours. Moreover, the Firm Order Confirmation and Reject interval for mechanized orders is reported as being longer than it actually is due to a coding error.